

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

VESTER MILLS #208720
Plaintiff(s),

CASE NO.: 2:07-CV-13285

vs.

DISTRICT JUDGE GERALD E. ROSEN
MAGISTRATE JUDGE STEVEN D. PEPE

BLAINE LAFLER, et al.,
Defendant(s).

**ORDER ON DEFENDANT PASSION FIELDS'
MOTION TO STRIKE AMENDED COMPLAINT (DKT. # 43)**

This matter is before the court on defendant Passion Fields' motion to strike plaintiff's First Amended Complaint. Plaintiff amended his complaint on February 16, 2009 (Dkt. #39). Defendant asserts that Plaintiff's First Amended Complaint fails to restate all of Plaintiff's allegations, in violation of Eastern District of Michigan Local Rule 15.1. Defendant also argues that the Amended Complaint realleges claims that were already dismissed.

Plaintiff's response concedes Defendant's arguments and requests that the First Amended Complaint be stricken without prejudice (Dkt. # 44).

As Plaintiff and Defendant Passion Fields agree on the disposition of the First Amended Complaint, it will be stricken without prejudice to subsequent amendments.

IT IS HEREBY ORDERED that the First Amended Complaint (Dkt. # 39) is **STRICKEN**. The parties to this action may object to and seek review of this Order, but are required to file any objections within ten (10) days of service of a copy hereof as provided for in 28 U.S.C. § 636(b)(1) and E.D. Mich. LR 72.1(d)(2). Failure to file specific objections constitutes a waiver of any further right of appeal. *Thomas v. Arn*, 474 U.S. 140 (1985); *Howard v. Sec'y of HHS*, 932 F.2d 505 (6th Cir. 1991); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). Filing of objections which raise some issues but fail to raise others with specificity, will not preserve all the objections a party might have to this report and recommendation. *Willis v.*

Sec'y of HHS, 931 F.2d 390, 401 (6th Cir. 1991); *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370,1373 (6th Cir. 1987). Pursuant to E.D. Mich. LR 72(d)(2), a copy of any objections is to be served upon this Magistrate Judge.

Within ten (10) days of service of any objecting party's timely filed objections, the opposing party may file a response. The response shall be not more than twenty (20) pages in length unless by motion and order such page limit is extended by the Court. The response shall address specifically, and in the same order raised, each issue contained within the objections. A party may file a reply brief within 5 days of service of a response. The reply shall be not more than five (5) pages in length unless by motion and order such page limit is extended by the Court.

Dated: June 15, 2009
Ann Arbor, MI

s:/ Steven D. Pepe
United States Magistrate Judge

Certificate of Service

The undersigned certifies that a copy of the foregoing order was served on the attorneys and/or parties of record by electronic means or U.S. Mail on June 15, 2009.

s/Jermaine Creary
Interim Case Manager